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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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Date: 2024.03.21
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WRIT PETITION NO.1820 OF 2024

Paramjitsingh Ghai & Ors.

..Petitioners

V/s.

Bharat Petroleum Corporation Limited & Ors.

..Respondents

Mr.Pradeep Thorat i/b Ms.Aditi Naikare for the Petitioners.

Mr.S.R. Page with Ms.Ruchi Umrotkar for Respondent No.1.

Mr.Vikas K. Singh for Respondent No.2(b).

CORAM : RAJESH S. PATIL, J.

DATE : 19TH MARCH, 2024.

P.C. :-

1. The Writ Petition filed by the Original Landlords with a limited prayer that the Obstructionist Notice pending before the Executing Court from the year 2011 be heard in the time bound manner and in any event within a period of two months from today.

2. I have heard the counsel appearing for the parties and

have gone through the documents on record. The Eviction Suit bearing No.T. E. & R. Suit No.112/137 of 2005 was filed by the Original Landlords in the year 2005. However, the said suit was dismissed and the Appeal filed against the dismissal of the suit before the Appellate Bench of the Court of Small Causes, Mumbai was allowed. However, while the Plaintiffs trying to execute the decree, which was obstructed by Respondent No.2. Hence, the Obstructionist Notice was filed in the year 2011 being Obstructionist Notice No.167 of 2011 in T.E. & R. Suit No.112/137 of 2005 before the Court of Small Causes, Mumbai. It is the case of Mr.Thorat, appearing for the Landlords that from the year 2011 till today, the Respondents are not co-operating in appearing in the Obstructionist Notice, even though the order was passed on 4 April 2019 by the Executing Court thereby expediting the hearing of the Obstructionist Notice. According to me, case is made out to allow this Writ Petition. Writ Petition is allowed in terms of prayer clause (b) except the bracketed portion. Prayer clause (b) of the Writ Petition reads as under :-

“(b). That after perusal of the same this

Hon'ble Court be pleased to direct the Learned Judge, Small Causes Court at Mumbai to hear and decide the Obstructionist Notice No.167 of 2011 in T.E. & R. Suit No.112/137 of 2005 in a time bound manner (and in any event within a period of two months)".

3. Hearing of the Obstructionist Notice No.167 of 2011 is hereby expedited and the Executing Court in any event would dispose of the said Obstructionist Notice by hearing both the parties within a period of three months from today.
4. The Writ Petition is accordingly disposed of.

(RAJESH S. PATIL, J.)